

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Kyle Rohrig,

Plaintiff,

v.

Officer Neil Grant, et. al.,

Defendants.

Case No. 2:21-cv-1843

Judge Michael H. Watson

Magistrate Judge Vascura

ORDER

On August 17, 2021, Magistrate Judge Vascura issued a Report and Recommendation (“R&R”), ECF No. 15, recommending that the Court dismiss with prejudice Plaintiff’s action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b), after he failed to appear for the Court’s preliminary pretrial trial conference or show cause for his failure to notify the Court of his absence. See ECF No. 12. In the R&R, Magistrate Judge Vascura notified the parties of their right to file objections to the R&R pursuant to 28 U.S.C. § 636(b)(1). R&R 3, ECF No. 15. She also specifically advised the parties that the failure to object to the R&R within fourteen days would result in a waiver of both the right to *de novo* review by the District Judge and the right to appeal the decision of the District Court adopting the R&R. *Id.* at 4.


However, unbeknownst to the Court, on August 16, 2021, Plaintiff responded to the prior Show Cause Order. ECF No. 16. Due to an inadvertent

delay in entering that response, the Court became aware of this response only *after* the subject R&R was issued.

Magistrate Judge Vascura has reviewed that response and found that it was deficient both because it was filed late and because it did not provide a legitimate reason for Plaintiff's failure to appear. Still, upon receipt of Plaintiff's response, Magistrate Judge Vascura extended Plaintiff's time to object to the R&R by seven days. ECF No. 17.

Even with this extension of time to respond, the deadline for filing such objections has passed, and no objections were filed. Having received no objections, the R&R is **ADOPTED**. The Clerk is **DIRECTED** to **DISMISS WITH PREJUDICE** Plaintiff's action for failure to prosecute.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT